



Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Jeffrey L. Clet

SUBJECT: HAZARDOUS INCIDENT TEAM (HIT) UNIT PARTIAL COST RECOVERY FEE

DATE: June 3, 2004

Approved /s/ Date 6/03/04

INFORMATION

BACKGROUND

In June 1993, the City Auditor completed an audit of the Fire Department's Hazardous Materials Storage Permit fees. This audit included a recommendation to evaluate the potential for recovery of a portion of the costs for the Hazardous Incident Team (HIT) emergency response unit by restructuring and increasing the Hazardous Materials Storage Permit fees.

Following the release of this audit, the Fire Department prepared options for recovering a portion of HIT costs annually. To date, the City has not implemented a HIT related fee. In reviewing 2004-2005 HIT program services and in accordance with the Mayor's Budget Message for Fiscal Year 2004-2005, a fee has been proposed to partially recover costs associated with the permitting activities performed by the HIT Unit.

ANALYSIS

The Hazardous Material Storage Ordinance created a regulatory program for businesses that use and store quantities of hazardous materials. Both Hazardous Materials Inspectors and fire service personnel on the Hazardous Incident Team (HIT) Unit implement this Program.

Hazardous Materials Inspectors conduct inspections to assure compliance with the State Health and Safety Code and San José's Hazardous Materials Storage Ordinance. The HIT Unit conducts "walk-through" site visits to improve preparedness for potential hazardous materials incidents. These "walk-through" site visits require hours of planning and meetings with Hazardous Materials Inspectors and site representatives. To date, the cost of services provided to permit holders by the HIT Unit has not been recovered through the permit fee. The General Fund has subsidized these costs related to the program.

Under the expanded regulatory program, HIT Unit will provide enhanced services that will include proactive and comprehensive activities designed to reduce the number of hazardous materials emergency incidents. These activities include the following: HIT Unit personnel will review the Hazardous Materials Business Plan (HMBP), to ensure compliance with San José's Hazardous Materials Storage Ordinance; inspections of facilities to verify that site maps are accurate and sufficiently detailed; coordination with businesses to ensure that facilities have adequate supplies to prevent and keep emergencies from escalating; and coordination with site representatives to ensure that sufficient training and communications procedures are in place to minimize the number of emergency incidents. The Fire Department is proposing an increase in Hazardous Material Storage Permit fees to recover costs associated with this increased level of service provided by the HIT Unit.

FISCAL IMPLICATIONS

The estimated total cost of operation for the HIT Unit for 2004-2005 (personnel costs and other non-personal costs) is approximately \$2.6 million. Although the HIT Unit provides other general emergency and non-emergency services to the community at large, only those costs that pertain to specific preventative activities related to the regulatory program are proposed to be recovered in the Department's Fee Program.

A surcharge is proposed to be assessed on all facilities with a Hazardous Materials Occupancy Classification Code (HMOC) 8 to HMOC 10, and HMOC 11 with a Total Quantity Range of 5 or greater. These facilities are more complex and include electronic facilities, semiconductor facilities, chemical warehouses, chemical manufacturing, circuit board manufacturing, fuel terminals, and metal plating operations. These more complex facilities account for approximately 10% of the 2,670 regulated facilities.

Currently, the Hazardous Materials Storage Ordinance Fee Structure divides hazardous materials into 13 categories following the federal Department of Transportation (DOT) classification system (see Table 1) and then utilizes the quantities of materials in each of the categories using quantity ranges (QRs) from one to five to determine fees (see Table 2). The QRs of all categories are added together to determine the total fees for a facility.

TABLE 1
Hazardous Materials Categories used by the City of San Jose

<p><u>8 Categories</u>: Explosives, gases, flammable and combustible liquids, oxidizing substances, flammable solids, poisonous/infectious substances, corrosive materials, and other regulated materials (Can expand to 13 categories when considering the physical state of the material)</p>

TABLE 2
Quantity Ranges used by the City of San Jose

Range Numbers	Gases (cubic feet)	Liquids (gallons)	Solids (pounds)
1	Less than 200	Less than 55	Less than 500
2	200 to 1,999	55 to 549	500 to 4,999
3	2,000 to 9,999	550 to 2,749	5,000 to 24,999
4	10,000 to 19,999	2,750 to 5,499	25,000 to 49,999
5	20,000 or more	5,500 or more	50,000 or more

The new fee structure would create tiers based on Total Quantity Ranges at facilities in order to enable the Department to equitably allocate costs based on the level of services received. This allocation of costs is based on the premise that complex facilities require more time for plan review and inspections. Implementing the proposed surcharge would have the highest percentage impact on medium sized complex facilities, where the increase in total permit fee would range from 62% to 105%. This proposed surcharge would recover approximately 8.5%, or \$218,300, of HIT Unit costs that would otherwise be subsidized.

Council Budget Study Session Concerns

During the Council Budget Study Session, two areas of concern were raised in relation to this proposed fee and the following information was requested:

1. Differences in the duties and activities of the Hazardous Material Inspectors and the Hazardous Material Response Team in the work that will be performed.
2. The justification for the fees charged and the distribution of those fees between the facilities with Hazardous Material Storage Permits.

Comparison of Responsibilities between Hazardous Material Inspectors and the HIT unit

Although both the Hazardous Materials Inspectors and HIT Unit personnel would work with these facilities, the focus of responsibilities differs. Hazardous Materials Inspectors focus on technical requirements, the specifics of the HMBP, and inspections in compliance with State Health and Safety Code and with San José's Hazardous Materials Ordinance. While the HMBP also plays an important role in the responsibilities of the HIT Unit, HIT personnel are more involved with the onsite activities of the facility. The following chart provides a comparison of the key responsibilities of the two groups.

Comparison of Responsibilities between Hazardous Material Inspectors and the HIT unit (Cont'd.)

Activities	Hazardous Materials Inspectors	HIT Unit
HMBP	<ul style="list-style-type: none"> * Verify classification of chemicals listed on HMBP * Verify accuracy of business activities in HMBP * Verify accuracy of Business Owner/Operator Identification Information * Verify amounts and location of chemicals specified in HMBP 	<ul style="list-style-type: none"> * Review and consolidate HMBP to operational requirements * Compare with existing HMBP on board apparatus * File HMBP on apparatus or file folders * Verify emergency contacts and phone numbers * Verify location, quantity, storage of hazardous materials
Maps, Other documents	<ul style="list-style-type: none"> * Verify facilities maps * Verify that Materials Safety Data Sheets are readily available 	<ul style="list-style-type: none"> * Retain all maps, plot plans, diagrams, chemical and storage area locations
Inspections	<ul style="list-style-type: none"> * Review facilities processes with facility manager * Verify proper containment systems * Verify occupancy requirements * Verify emergency systems * Verify that HMBP is on site and readily available * Review spill/release history since last inspection * Verify maintenance of monitoring and treatment system * Verify proper labeling and signage of hazardous materials * Document violations observed * Explain timeline for correction of violations 	<ul style="list-style-type: none"> * Discuss safety precautions and requirements with facility manager/site supervisor * Conduct on-site walk through * Observe normal plant operations/ maintenance of facilities * Verify location of emergency systems * Verify normal/emergency entry and exit routes * Review plans for location of personnel during and after events * Verify routes of chemical from source to tool * Identify and observe chemical use process areas for chemical and mechanical hazards * Inspect evacuation areas

Rationale for HIT surcharge fee distribution

There are currently 2,670 regulated facilities in the City of San José who store, handle or use hazardous materials. Of the total 2,670 facilities, 2,415 facilities currently pay permit fees and 255 facilities are exempt from paying permit fees for various reasons (city facilities, special districts, temporary fee waiver facilities). The estimate of fees generated by the Hazardous Materials Storage Ordinance for 2003-2004 is \$1,420,000. Of the 2,415 facilities required to pay permit fees, 788 facilities submit a short form and are charged a flat hazardous materials permit of \$121. 1,627 of the 2,415 facilities are required to submit the HMBP long-form because they meet one of the reporting requirements of Chapter 6.95 of the California Health and Safety Code (liquid hazardous materials of 55 gallons or more, solid hazardous materials of 500 pounds or more or gaseous hazardous materials of 200 cubic feet or more). 788 of the 2,415 facilities either have less than these quantities of materials or meet the definition of a retail product facility. These 788 facilities (short form) are currently charged a flat hazardous materials permit fee of \$121. 277 of the 1,627 HMBP long-form facilities are defined as complex facilities as these facilities have complex systems that require more extensive plan review and inspections.

The proposed Hazardous Incident Prevention Fee has been broken into 14 Tiers, with each Tier (except Tier 1) encompassing about four quantity ranges. In general, a large cumulative number of quantity ranges indicates that the site uses, stores, or handles a significant amount of hazardous materials. These materials are also typically in multiple hazard categories (explosives, gases, poisons, toxic gases, corrosives, oxidizing substances, flammable liquids, combustible liquids, flammable solids, etc.). The HIT Unit will likely require significant time to conduct a thorough and complete review of the Emergency Response and Contingency Plan, conduct their site walk-through, and relay the information obtained to other shifts.

The proposed fee will have a surcharge ranging from \$385 to \$2,985 based upon the Tier (cumulative quantity range) in which they fall. Those with more materials pay higher fees. The average cost increase for this Hazardous Incident Prevention Fee is \$787 per facility. The proposed charges for the various Tiers, the distribution of the facilities, and a general description of the types of facilities in each Tier are presented in Attachment A.

Prior to developing this proposed fee structure, the Department considered a general fee increase applicable to all 1,627 billable long form facilities within the City. If this fee were spread out among 15 Tiers, the percentage increase would be in the range of 15 to 20 % over 2003-2004 permit fees.

The Department however chose not to recommend this option of imposing a fee on all billable long form facilities. Of the total 1,627 billable long form facilities, about 1,350 facilities would have a low risk of significant emergency incidents. This is attributable to the somewhat limited quantities of materials stored and the types of operations/activities that occur at most of these facilities. Due to these reasons, the Department chose not to recommend this option.

In summary, the Fire Department believes that the fee structure of applying the HIT fee to the 277 complex facilities is the most equitable implementation, as these facilities have wider varieties and higher quantities of hazardous materials.

PUBLIC OUTREACH

A public outreach meeting was held with members of the community to share information about the recommended fee increase on May 14, 2004. Additionally, a meeting was held on May 24, 2004 with representatives of facilities impacted by the proposed fee and with the Silicon Valley Manufacturers Group (SVMG) to gain their insights and input on this proposed fee change. During this most recent meeting, SVMG expressed concerns about the proposed fee increases both from the perspective of the justification for the increase in hazardous material fees and the methodology for determining how much of the increase each facility would pay. SVMG stated that they would be willing to work on a long-term strategy to maintain the Hazardous Materials Emergency Response Program and investigate other potential sources of funding.

CONCLUSION

The Department believes that implementation of the proposed fee is consistent with the March Mayor's Budget Message for 2004-2005 of setting fees and charges that recover costs of service. The Department will continue to work with the community, with its customer base, and with SVMG to develop a long-term strategy of maintaining safety and emergency preparedness in facilities.

/s/
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Fire Chief

ATTACHMENT A

The proposed charges for the various Tiers, the distribution of the facilities and a general description of the types of facilities in each Tier.

Distribution of Hazardous Incident Prevention Fee into 14 Tiers

277 facilities, all HMOC 8, 9 or 10 facilities and HMOC 11 facilities whose Quantity Range is 5 or greater

TIER #	QR RANGE	# FACILITIES	HAZARDOUS INCIDENT PREVENTION FEE PER FACILITY	TOTAL FEE RECOVERY FOR THIS TIER	GENERAL DESCRIPTION OF FACILITIES
1	1-3	2	\$385.00	\$770.00	plating shop, small electronics firm
2	4-7	117	\$541.00	\$63,297.00	small to medium plating shops, small to medium electronics firm, specialty gases, High Rises, large painting shop, fuel terminal, water company facilities, large auto dealership, communication facilities, rental car facilities
3	8-11	68	\$748.00	\$50,864.00	food processing, landfills, medium to large semiconductor, facilities, chemical warehouses, pesticide facilities, metal plating and fabrication, fuel terminals, cold storage
4	12-15	47	\$950.00	\$44,650.00	hospital, chemical warehouse, food processing, winery medium to large metal plating facilities, medium to large electronics firms, pool products facility, linen service
5	16-19	26	\$1,155.00	\$30,030.00	large semiconductor, hospital, large printing shop, large metal fabrication, asphalt plants, large plating shop
6	20-23	7	\$1,365.00	\$9,555.00	large metal fabrication, large semiconductor, hospital
7	24-27	4	\$1,570.00	\$6,280.00	large semiconductor, large plating, large utility,
8	28-31	3	\$1,770.00	\$5,310.00	large metal recycler, chemical warehouse, large semiconductor
9	32-35	0	\$1,970.00	\$0.00	
10	36-39	1	\$2,175.00	\$2,175.00	chemical warehouse
11	40-43	1	\$2,375.00	\$2,375.00	chemical warehouse
12	44-47	0	\$2,575.00	\$0.00	
13	48-51	0	\$2,780.00	\$0.00	
14	52-55	1	\$2,985.00	\$2,985.00	chemical warehouse
Totals		277		\$218,291.00	